

PTO/SB/26 (05-03)

Approved for use through 4/30/2003. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING

Docket Number (Optional)

REJECTION OVER A PRIOR PATENT	025684.113-US
In re Application of: Steven Sheppard, et al.	RECEIVED
Application No.: 09/526,100	OCT 3 1 2003
Filed: March 15, 2000	Technology Center 2600
For: OPTICAL CONVERSION DEVICE	, 66
The owner*, NEXT LEVEL COMMUNICATIONS, INC. the instant application hereby disclaims, except as provided below, the terminal part of on the instant application, which would extend beyond the expiration date of the full standard application, which would extend beyond the expiration date of the full standard application shall be enforceable only for an patent are commonly owned. This agreement runs with any patent granted on the ingrantee, its successors or assigns.	atutory term defined in 35 U.S.C. 154 and 3,875
In making the above disclaimer, the owner does not disclaim the terminal part of any that would extend to the expiration date of the full statutory term as defined in 35 U. presently shortened by any terminal disclaimer, in the event that it later: expires for unenforceable, is found invalid by a court of competent jurisdiction, is statutorily discurder 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissue the expiration of its full statutory term as presently shortened by any terminal disclaimer	S.C. 154 and 173 of the prior patent, as failure to pay a maintenance fee, is held claimed in whole or terminally disclaimed id, or is in any manner terminated prior to
Check either box 1 or 2 below, if appropriate.	
1.	university, government agency, etc.),
I hereby declare that all statements made herein of my own knowledge are true an and belief are believed to be true; and further that these statements were made with the and the like so made are punishable by fine or imprisonment, or both, under Section 1 and that such willful false statements may jeopardize the validity of the application or an	he knowledge that willful false statements 001 of Title 18 of the United States Code
2. The undersigned is an attorney or agent of record. Signature	
	Vice President, Engineering printed name
	584-6657 one Number
X Terminal disclaimer fee under 37 CFR 1.20(d) is included.	one Number

*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

10/30/2003 ZJUHARI 00000099 09526100

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TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL DOUBLE PATENTING REJECTION OVER A PENDING SECOND APPLICATION

Docket Number (Optional)

025684.113-US

In re Application of:

Steven Sheppard, et al.

RECEIVED

Application No.:

09/526,100

OPTICAL CONVERSION DEVICE

OCT 3 1 2003

Filed:

March 15, 2000

Technology Center 2600

For:

The owner*, NEXT LEVEL COMMUNICATIONS, INC.

percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173 as shortened by any terminal disclaimer filed prior to the grant of any patent granted on pending second Application Number 09/488,275 , filed on January 20, 2000 , of any patent on the pending second application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the second application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on the second application, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

1. X For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. The undersigned is an attorney or agent of record

Date

John Sheppard, Senior Vice President, Engineering
Typed or printed name

707-584-6657 Telephone Number

X Terminal disclaimer fee under 37 CFR 1.20(d) is included.

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TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING **REJECTION OVER A PRIOR PATENT**

Docket Number (Optional)

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Application No.: 09/5	26,100		OCT 3 1 2003
Filed: March 15, 20	000		Toohnology Conto
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that would extend to the ex presently shortened by any unenforceable, is found invo under 37 CFR 1.321, has all	piration date of the full stat terminal disclaimer, in the alid by a court of competer I claims canceled by a reex	disclaim the terminal part of any patent autory term as defined in 35 U.S.C. 154 event that it later: expires for failure to it jurisdiction, is statutorily disclaimed i amination certificate, is reissued, or is i aned by any terminal disclaimer.	and 173 of the prior patent, as pay a maintenance fee, is held n whole or terminally disclaimed
Check either box 1 or 2 b	elow, if appropriate.		
	on behalf of an organization is empowered to act on beh	(e.g., corporation, partnership, universi alf of the organization.	ty, government agency, etc.),
and belief are believed to be and the like so made are pu	e true; and further that these inishable by fine or imprison	my own knowledge are true and that all e statements were made with the know ment, or both, under Section 1001 of T e validity of the application or any patent	edge that willful false statements itle 18 of the United States Code
2. The undersigned	is an attorney or agent of re	Signature	<u>//)-23-03</u> Date
		John Sheppard, Senior Vice Pr Typed or printed	
		707-584-669	
		Telephone Nur	nber
X Terminal disclaimer	fee under 37 CFR 1.20(d) is	s included.	
		terminal disclaimer is signed by the assi certification. See MPEP § 324.	gnee (owner).

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Steven Sheppard, et al.

RECEIVE

Application No.:

09/526,100

OCT 3 1 2003

Filed:

March 15, 2000

Technology Center 2500

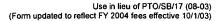
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percentany parin 35 to second pendin enforce This agassigns applications of the percentage of the perc	g second application. The owner hereby agree able only for and during such period that it and a greement runs with any patent granted on the ins s. In making the above disclaimer, the owner does tion that would extend to the expiration date of the don the second application, as shortened by any to	s, except as provided below, the terminal part of any block and beyond the expiration date of the disclaimer filed prior to the grant of any block and block	e full statutory ten patent granted or , of any patenstant application tion are common grantee, its succent ent granted on the 154 and 173 of a grant, in the even	n defined pending ent on the shall be y owned. essors or ne instant ny patent t that any
compe by a re	ranted patent: expires for failure to pay a main tent jurisdiction, is statutorily disclaimed in whole o sexamination certificate, is reissued, or is in any ned by any terminal disclaimer filed prior to its grant	r terminally disclaimed under 37 CFR 1.33 nanner terminated prior to the expiration	21, has all claims	canceled
Check	either box 1 or 2 below, if appropriate.			
1. [X For submissions on behalf of an organization (undersigned is empowered to act on behalf of		government agend	cy, etc.), the
informa false s	hereby declare that all statements made herein ation and belief are believed to be true; and furth tatements and the like so made are punishable by States Code and that such willful false statements.	er that these statements were made with fine or imprisonment, or both, under Sec	the knowledge t tion 1001 of Title	hat willful 18 of the
2. [The undersigned is an attorney or agent of rec	ord. Signature	<u>/0-23-03</u> Date	
		John Sheppard, Senior Vice Presid		g
		Typed or printed name	е	
		707-584-6657		

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Telephone Number



2003



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•	for	FY	2004	

First Named Inventor Effective 10/01/2003, Patent fees are subject to annual revision Examiner Name J. Chung

Application Number 09/526,100-Conf. #9168 March 15, 2000 Filing Date Steven Sheppard 2611 Art Unit 025684.113-US Attorney Docket No.

Complete if Known

Applicant claims small entity status. See 37 CFR 1.27 TOTAL AMOUNT OF PAYMENT 440.00 METHOD OF PAYMENT (check all that apply) FEE CALCULATION (continued) Money Order 3. ADDITIONAL FEES Other None Х Technology Center 2600 Deposit Account: Large Entity Small Entity Deposit 50-0740 Fee Fee Fee Account Fee Description (\$) Code Code (\$) Fee Paid Number Deposit 1051 130 2051 65 Surcharge - late filing fee or oath Covington & Burling Account Name Surcharge - late provisional filing fee or cover 1052 50 2052 25 The Director is authorized to: (check all that apply) sheet. Charge fee(s) indicated below X Credit any overpayments 1053 130 1053 130 Non-English specification Charge any additional fee(s) during the pendency of this application 1812 2.520 1812 2,520 For filing a request for ex parte reexamination Requesting publication of SIR prior to 1804 920* 1804 920* Charge fee(s) indicated below, except for the filing fee Examiner action Requesting publication of SIR after to the above-identified deposit account. 1805 1.840 1805 Examiner action **FEE CALCULATION** 1251 110 2251 55 Extension for reply within first month 1. BASIC FILING FEE 1252 420 2252 Extension for reply within second month Large Entity Small Entity 1253 950 2253 Extension for reply within third month Fee Paid Fee Fee Fee Fee Fee Description 1254 1.480 2254 740 Extension for reply within fourth month Code (\$) (\$) 2,010 2255 1,005 Extension for reply within fifth month 1001 Utility filing fee 1255 770 2001 385 1002 340 2002 170 Design filing fee 1401 330 2401 165 Notice of Appeal 1003 530 2003 265 Plant filing fee 1402 330 2402 165 Filing a brief in support of an appeal 1004 770 2004 Reissue filing fee 1403 290 2403 145 Request for oral hearing 1451 1,510 Petition to institute a public use proceeding 1005 160 Provisional filing fee 1,510 1451 1452 110 2452 Petition to revive - unavoidable **SUBTOTAL (1)** | (\$) 1453 1,330 2453 665 Petition to revive - unintentional 2501 Utility issue fee (or reissue) 1501 1,330 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE Fee from 480 2502 1502 240 Design issue fee Fee Paid Total Claims -20** = 1503 640 2503 320 Plant issue fee Independent 1460 130 1460 130 Petitions to the Commissioner 1807 50 1807 50 Processing fee under 37 CFR 1.17(q) Multiple Dependent 1806 1806 180 180 Submission of Information Disclosure Stmt Large Entity Small Entity Recording each patent assignment per 8021 40 8021 40 Fee Description Code (\$) Code (\$) property (times number of properties) Filing a submission after final rejection 1202 18 2202 Claims in excess of 20 1809 770 2809 385 (37 CFR 1.129(a)) 1201 86 2201 43 Independent claims in excess of 3 For each additional invention to be 1810 770 2810 385 1203 290 2203 145 Multiple dependent claim, if not paid examined (37CFR 1.129(b)) 1204 86 2204 ** Reissue independent claims 1801 770 2801 385 Request for Continued Examination (RCE) over original patent Request for expedited examination 1802 900 1802 2205 ** Reissue claims in excess of 20 of a design application 1205 and over original patent 440.00 Other fee (specify) 1814 Statutory Disclaimer 440.00 SUBTOTAL (2) (\$) *Reduced by Basic Filing Fee Paid SUBTOTAL (3) (\$) **or number previously paid, if greater, For Reissues, see above

SUBMITTED BY								(Complete	(if applicable))
Name (Print/Type)	Paul J. Ben	an 🗶	//			Registration No. (Attorney/Agent)	36,744	Telephone	(202) 662-6000
Signature	de	and	T	\leq	XXM	an		Date	October 29 2003
